IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4437 of 2001

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UMANG UPENDRABHAI BHATT

Versus

HARIPRASAD RAMANLAL DALWADI

Appearance:

MR BG JANI for Appellant

MR SHASHIKANT S GADE for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE H.H.MEHTA

Date of decision: 18/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard the learned counsel for the appellant and Mr. Sashikant Gade for respondent no.2, the Insurance Company. Appeal Admitted. Mr. Shashikant Gade appears for respondent no.2 Insurance Company and waives service of notice of the appeal.

2. On a joint request this appeal is taken up for hearing today.

3. This is an appeal under section 173 of the Motor Vehicles Act, 1988 at the instance of the original claimant challenging the judgement and award passed under section 168 of the said Act by the Motor Accident Claims Tribunal No.3 at Ahmedabad, in Motor Accident Claim Petition No.383 of 1991. The claim in the present appeal is limited to Rs.50000/-.

4. The main ground urged by the learned counsel for the appellant-claimant in the present appeal is that the Tribunal has completely ignored and/or abandoned the basic principles recognised by law in computing compensation awardable to an insured claimant.

5. The principle which has been followed by the Tribunal is as under:

5.1 The Tribunal has first determined the current income of the claimant, has then determined the permanent partial disability and has therefore deduced the loss of earning capacity. This amount has been multiplied by the multiplier which would indicate the total loss to the injured claimant. When this computation is done on the basis of the figures determined by the Tribunal on the basis of factual evidence on record, such computation would come to a little over Rs.1,18,000/-. However, the Tribunal has, without assigning any reason whatsoever, awarded a lumpsum figure of Rs.50000/towards "future economic loss".

6. It is therefore obvious that there is absolutely no justification for awarding only Rs.50000/- by way of lumpsum figure towards future economic loss, as against a figure of a little over Rs.1,18,000/-, which would be the figure if such future economic loss was calculated on the figures of income, multiplier, disability, etc. which the Tribunal has determined on the basis of the evidence on record.

7. No doubt the Tribunal has also awarded other amounts under different heads, but these amounts would

not be relevant in the light of the error of principle we have noted hereinabove.

8. It would, therefore, appear that the claimants would be entitled to a far higher figure of additional compensation, were it not for the fact that the claim appeal is limited to Rs.50000/-.

9. In the premises aforesaid, the impugned award is modified to the extent of holding and directing that the appellant-claimant would be entitled to an aggregate compensation in the sum of Rs.1,35,000 (Rupees one lac thirty-five thousand only) together with proportionate costs and interest at the rate of 12% per annum from the date of the petition till realisation.

10. This appeal is, therefore, fully allowed with costs. Decree accordingly.

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